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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,893	10/21/2005	Roman Chistyakov	ZON-005USN	9902
23701 7590 03/07/2008 RAUSCHENBACH PATENT LAW GROUP, LLC P.O. BOX 387 BEDFORD, MA 01730				
EXAMINER				
PHILOCFNT, HAISSA				
ART UNIT		PAPER NUMBER		
2821				
MAIL DATE		DELIVERY MODE		
03/07/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/553,893

**Applicant(s)**

CHISTYAKOV, ROMAN

**Examiner**

Haissa Philogene

**Art Unit**

2821

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 47-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 1/17/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 47-58 and 68-73 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 6-9, 20-22 and 26-28 of U.S. Patent No. 6,806,651. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the conflicting claims are not identical, they are not patentably distinct from each other because applicant is claiming the same invention as that of the above patent, and was not prevented under 37 CFR 1.142 or 1.146 from earlier presenting the same claims for examination in the issued patent. Specifically, claims 47-58 and 68-73 recite a plasma source and method thereof for generating a high-density plasma as is claimed in claims 1-4, 6-9, 20-22 and 26-28 of U.S. Patent No. 6,806,651. The remaining specific structural limitations, can either be

said to have been obviously implied by equivalent language in the claims of the patent, or certainly clear from the disclosure of the above cited patent. Reading claims 47-58 and 68-73 of the application in light of the specification, the examiner finds that claims 47-58 and 68-73 merely recite an obvious variant of the invention already patented in claims 1-4, 6-9, 20-22 and 26-28 of U.S. Patent No. 6,806,651.

Claims 59-67 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 8, 9 and 12-14 of U.S. Patent No. 6,806,652. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the conflicting claims are not identical, they are not patentably distinct from each other because applicant is claiming the same invention as that of the above patent, and was not prevented under 37 CFR 1.142 or 1.146 from earlier presenting the same claims for examination in the issued patent. Specifically, claims 59-67 recite a plasma source for generating a high-density plasma as is claimed in claims 1-4, 8, 9 and 12-14 of U.S. Patent No. 6,806,652. The remaining specific structural limitations, can either be said to have been obviously implied by equivalent language in the claims of the patent, or certainly clear from the disclosure of the above cited patent. Reading claims 59-67 of the application in light of the specification, the examiner finds that claims 59-67 merely recite an obvious variant of the invention already patented in claims 1-4, 8, 9 and 12-14 of U.S. Patent No. 6,806,652.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chistyakov, Patent No. 6,903,511; Anzaki et al., Patent No. 6,585,871; Ono, Patent No. 6,506,290; Drewery et al., Patent No. 6,197,165.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 8:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Owens can be reached on (571)272-1662. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2821

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. P./

/Haissa Philogene/  
Primary Examiner, Art Unit 2821